

In re) Fair Hearing No. 20,687
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Appeal of)

The petitioner appeals the decision of the Department for Children and Families, Health Access Eligibility Unit (HAEU) terminating her children's eligibility for Medicaid under the Dr. Dynasaur Program. The issue is whether the petitioner's household income exceeds the program maximum.

1. The petitioner lives with her husband and her three children. Following a review of the children's eligibility in December 2006, the Department orally informed the petitioner that her children would no longer be eligible for Dr. Dynasaur benefits until they incurred a spenddown amount of \$8,926.20 for the six-month period beginning January 1, 2007.

2. At the hearing, held on January 8, 2007, the petitioner did not dispute the Department's determination that her countable household income as of the date of her review was \$6,150 a month, which is in excess of the Dr.

Dynasaur maximum of \$6,033 for a five-person household. The family's income includes her husband's earnings and child support the petitioner receives on behalf of some of her children.

3. The petitioner disputes the Department's regulations that deem the earnings of her husband as available to all her children, some of whom are her husband's step-children.

ORDER

The Department's decision is affirmed.

REASONS

Under the Dr. Dynasaur Medicaid regulations, all gross earned and unearned income of all "household" members, which specifically include "step-parents", is considered countable income in determining the eligibility of any other household member. W.A.M. §§ 3001.31 & 3001.32. It appears that the Department credited the petitioner with all allowable deductions, which include a standard deduction of \$90 and a child support "pass through" of \$50. There is no dispute that under the regulations the petitioner has countable income in excess of the maximum for eligibility under the Dr. Dynasaur program for a five-person family with children,

which is \$6,033.¹ P-2420B. Thus, the Department's decision finding the petitioner's children ineligible for Dr. Dynasaur based on the family's December 2006 review must be affirmed. 3 V.S.A. § 3091(d), Fair Hearing Rule No. 17.

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¹ For children who are over income for Dr. Dynasaur, the spenddown amount they must incur is based on the difference between their income and the protected income level (PIL) for *regular* Medicaid. See W.A.M. § M350.